

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PACIFIC LIGHTNET, INC.)
For Waiver of the Number)
Utilization Threshold Requirements)
In the Honolulu Rate Center.)

DOCKET NO. 05-0255

DECISION AND ORDER NO. 22291

Filed Feb. 21, 2006
At 10:35 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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Commission, State of Hawaii.

K. Higashi

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DECISION AND ORDER

By this Decision and Order, the commission grants PACIFIC LIGHTNET, INC.'s ("PLNI") request for a waiver of the number utilization and months-to-exhaust ("MTE") requirements in the Honolulu rate center, and overturns the National Pooling Plan Administrator's ("Pooling Administrator") denial of PLNI's request for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center.

I.

Background

PLNI is a Hawaii corporation and a public utility as defined by Hawaii Revised Statutes ("HRS") § 269-1. PLNI is a telecommunications provider of local exchange and long distance services within the State of Hawaii.¹

¹See In re Pacific LightNet, Inc., Docket No. 01-0157, Decision and Order No. 18868, filed on August 31, 2001.

On September 29, 2005, PLNI filed a request with the Pooling Administrator² for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center to accommodate the numbering needs of its customer, Servco Pacific Inc. ("Servco"). On October 4, 2005, the Pooling Administrator denied PLNI's numbering resource request citing PLNI's failure to satisfy the requirement that carriers requesting new blocks of numbers have a minimum utilization rate of 75% or have less than a six-month inventory of numbers for the requested rate center ("Number Utilization Requirements").

A.

PLNI's Request

On October 6, 2005, PLNI filed this application with the commission requesting a waiver of the Number Utilization Requirements, in accordance with Federal Communications Commission ("FCC") requirements³ ("Application").⁴ PLNI states

²The Pooling Administrator and the North American Numbering Plan Administrator ("NANPA") administer the numbering resources in the United States. While the NANPA is generally responsible for central office code assignments, the Pooling Administrator focuses on the allocation and pooling of thousand-block numbers--both functions are provided by an organization named NeuStar, Inc. See In re MCImetro Access Transmission Services, Inc., Docket No. 04-0166, Decision and Order No. 21325, filed on August 27, 2004, ("Docket No. 04-0166") at 1, n.1.

³See 47 C.F.R. § 52.15(g)(4) (2005).

⁴PLNI served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an *ex officio* party to this docket pursuant to HRS § 269-51 and Hawaii Administrative Rules § 6-61-62.

that a waiver of the Number Utilization Requirements is needed to satisfy Servco's request for a block of 1,000 sequential numbers in the 5-series (meaning, XXX-5000 through XXX-5999) to accommodate 4-digit intra-office dialing using Servco's existing private branch exchange ("PBX") equipment. PLNI states that sequential numbers in the 5-series are needed due to technical limitations in Servco's PBX equipment. PLNI, however, represents that it is not able to accommodate Servco's request with its available numbering resources and that it is not able to satisfy the FCC's Number Utilization Requirements at this time, since its total utilization rate is 59.96% and its MTE in the Honolulu rate center is 28.8 months.

In support of its request, PLNI represents that: (1) as of October 5, 2005, there is an inventory of 272 blocks of 1,000 numbers available in the Honolulu rate center; and (2) it will only use the 1,000 numbers obtained through the waiver to serve Servco, and that it will return the numbers to the Pooling Administrator if Servco's request is withdrawn.

B.

Consumer Advocate's Position

On November 15, 2005, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to PLNI's request for waiver of the Number Utilization Requirements ("CA Statement of Position"). Upon review, the Consumer Advocate states that: (1) PLNI has demonstrated a need for the requested block of numbers and has exhausted all other

available remedies; (2) granting PLNI's request will facilitate competition in the State, which is in the public interest; (3) PLNI is not attempting to abuse the waiver process; and (4) the commission has granted similar requests in the past.⁵ Based on the above, the Consumer Advocate recommends that the commission overturn the Pooling Administrator's denial of PLNI's request for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center. The Consumer Advocate, however, states that the requested 1,000 block of numbers should only be used for Servco and that PLNI should be required to return the numbers to the Pooling Administrator if Servco's request is withdrawn.

II.

Discussion

The FCC has charged state commissions with the authority to affirm or overturn denials of number resources. Section 52.15(g)(4) of Title 47 of the Code of Federal Regulations states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The

⁵The Consumer Advocate cites to In re Verizon Hawaii Inc., Docket No. 02-0355, Decision and Order No. 19733, filed on October 25, 2002; In re Sandwich Isles Communications, Inc., Docket No. 02-0085, Decision and Order No. 20236, filed on June 18, 2003; In re MCI metro Access Transmission Services, Inc., Docket No. 04-0166, Decision and Order No. 21325, filed on August 27, 2004. See CA Statement of Position at 6.

NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.

47 C.F.R. § 52.15(g)(4) (2005) (emphasis added).

The FCC has clarified that state commissions "may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers."⁶ The FCC has also made clear that numbering resources granted under these conditions may only be used to serve the initial requesting customer and that if the customer's request is withdrawn or declined, the carrier must return the numbers to the Pooling Administrator.⁷

⁶See In re Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Telephone Number Portability, FCC 01-362, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, CC Docket Nos. 99-200, 96-98 and 95-116 at ¶ 64 (December 28, 2001).

⁷Id.

Consistent with the FCC's interpretation, a waiver of the Number Utilization Requirements, as requested by PLNI, appears to be warranted in this instance. The numbering resources are being requested by PLNI to accommodate Servco's needs. PLNI and Servco have made efforts to discover alternative solutions, but were unable to identify a reasonably feasible substitute, nor are they aware of any software remedies to resolve Servco's numbering needs.⁸ The commission, thus, finds that overturning the Pooling Administrator's denial of PLNI's request for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center is appropriate under the facts and circumstances of this case and consistent with the public interest. However, in accordance with FCC requirements, PLNI must utilize the numbering resources only for Servco, and must return the numbers to the Pooling Administrator if Servco's request for numbering resources is withdrawn or declined.

Based on the foregoing, the commission concludes that PLNI's request for a waiver of the Number Utilization Requirements for the Honolulu rate center, as proposed in its Application, should be granted. As such, the Pooling Administrator's denial of PLNI's September 29, 2005 request for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center should be overturned; provided that PLNI utilizes the numbers only for Servco, and returns the numbers to the Pooling

⁸See PLNI's response to the Consumer Advocate's information request nos. 2 and 3, filed on November 3, 2005.

Administrator if Servco's request for numbering resources is withdrawn or declined.

III.

Orders

THE COMMISSION ORDERS:

1. PLNI's request for a waiver of the Number Utilization Requirements is granted.

2. The Pooling Administrator's denial of PLNI's September 29, 2005 request for a block of 1,000 sequential numbers in the 5-series in the Honolulu rate center is overturned; provided that PLNI utilize the numbers only for its intended customer, Servco, and provided it returns the numbers to the Pooling Administrator if Servco's request for numbering resources is withdrawn or declined.

3. This docket is closed, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii FEB 21 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Ji Sook Kim
Ji Sook Kim
Commission Counsel
05-0255.sl

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22291 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: FEB 21 2006